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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 200616-0161]

RIN 0648-BJ89

**Revised Management Measures for the 2020 Guided Sport Pacific Halibut Fisheries
in International Pacific Halibut Commission Regulatory Areas 2A, 2C, and 3A**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This action revises the 2020 regulations for guided Pacific halibut sport fishing in International Pacific Halibut Commission (IPHC) Regulatory Areas 2A, 2C, and 3A. The revised regulations supersede the vessel application deadline previously published in Section 15 Paragraph 9, and guided halibut sport fishing management measures previously published in Section 29 of the 2020 annual management measures. No other regulations of the 2020 Pacific halibut management measures are changed by this action. The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), on behalf of the International Pacific Halibut Commission (IPHC), publishes regulations governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State. The revisions in this action are intended to enhance the conservation of Pacific halibut and further the

goals and objectives of the Pacific Fishery Management Council (PFMC) and North Pacific Fishery Management Council (NPFMC).

DATES: The revisions to IPHC's annual management measures are valid May 28, 2020. These revisions, and all other management measures previously published and not revised, are effective until superseded.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the International Pacific Halibut Commission, 2320 W. Commodore Way, Suite 300, Seattle, WA 98199-1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802; or Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way, N.E., Seattle, WA 98115. This final rule also is accessible via the Internet at the Federal eRulemaking portal at <http://www.regulations.gov>, identified by docket number NOAA-NMFS-2020-0833.

FOR FURTHER INFORMATION CONTACT: For waters off Alaska, Kurt Iverson, 907-586-7210; or, for waters off the U.S. West Coast, Kathryn Blair, 503-231-6858.

SUPPLEMENTARY INFORMATION:

Background

The IPHC has recommended regulations that would govern the Pacific halibut fishery in 2020, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979).

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce,

may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention (Halibut Act, Sections 773-773k). The Secretary of State, with the concurrence of the Secretary of Commerce, accepted the 2020 IPHC regulations as provided by the Halibut Act.

The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. The NPFMC has exercised this authority in developing halibut management programs for three fisheries that harvest halibut in Alaska: the subsistence, sport, and commercial fisheries. The PFMC has exercised this authority by developing a catch sharing plan governing the allocation of halibut and management of sport fisheries on the U.S. West Coast.

Subsistence and sport halibut fishery regulations for Alaska are codified at 50 CFR part 300. Commercial halibut fisheries off Alaska are subject to the Individual Fishing Quota (IFQ) Program and Community Development Quota (CDQ) Program (50 CFR part 679) regulations, and the area-specific catch sharing plans (CSPs) for Areas 2C, 3A, and Areas 4C, 4D, and 4E.

The NPFMC recommended and NMFS implemented through rulemaking a CSP for guided sport (charter) and commercial IFQ halibut fisheries in IPHC Regulatory Area 2C and Area 3A (Areas 2C and 3A) on January 13, 2014 (78 FR 75844; December 12, 2013). The Area 2C and 3A CSP regulations are codified at 50 CFR 300.65. The CSP

defines an annual process for allocating halibut between the commercial and charter fisheries so that each sector's allocation varies in proportion to halibut abundance, specifies a public process for setting annual management measures, and authorizes limited annual leases of commercial IFQ for use in the charter fishery as guided angler fish (GAF).

The IPHC held its annual meeting in Anchorage, Alaska, February 3–7, 2020, and recommended a number of changes to the previous IPHC regulations (84 FR 9243; March 14, 2019). The Secretary of State accepted the 2020 annual management measures. Pursuant to regulations at 50 CFR 300.62, the 2020 IPHC annual management measures were published in the **Federal Register** (85 FR 14586; March 13, 2020) to provide notice of their immediate regulatory effectiveness and to inform persons subject to the regulations of their restrictions and requirements. Because NMFS publishes the regulations applicable to the entire Convention area, these regulations include some provisions relating to and affecting Canadian fishing and fisheries. NMFS may implement more restrictive regulations for the fishery for halibut or components of it in waters of the United States; therefore, anglers are advised to check the current Federal and IPHC regulations prior to fishing.

On May 20, 2020, the IPHC held an intersessional meeting to address stakeholder proposals, including a proposal from U.S. Commissioners regarding the Area 2A sablefish fishery, and a recommendation by the North Pacific Fishery Management Council (NPFMC) to revise guided sport (charter) halibut management measures for Areas 2C and 3A. The proposed revisions for Areas 2C and 3A were prompted by an unexpected decline in charter fishing effort for the 2020 season. The NPFMC and IPHC

reviewed the best available information on the status of charter fishing effort supported by an analysis from the State of Alaska Department of Fish and Game (ADF&G) on the likely charter effort in Areas 2C and 3A and the relative effectiveness of various charter halibut management measures to maintain charter harvests within their allocations. The proposal for the incidental catch in the Area 2A sablefish fishery was for an extension to the application deadline.

The IPHC adopted revisions to Section 15, *Licensing Vessels for IPHC Regulatory Area 2A*, and Section 29, *Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E*, of the charter fishing management measures. In a similar process as described above, the Secretaries of State and Commerce accepted the revised IPHC regulations. The revised Section 15 and Section 29 management measures published herein supersede the 2020 Section 15 and Section 29 regulations previously published in the **Federal Register** (85 FR 14586; March 13, 2020). The IPHC did not recommend any other changes to the 2020 Pacific halibut management measures. The revised management measures, and all other management measures previously published and not revised, are effective until superseded.

Revised Application Deadline for Incidental Catch in the Sablefish Fishery in Area 2A

At the May 20, 2020 IPHC intersessional meeting, the Commissioners adopted a regulatory proposal amending the deadline for when a vessel operating in the incidental catch fishery during the sablefish fishery in IPHC Regulatory Area 2A must have submitted its “Application for Vessel License for the Pacific Halibut Fishery” form. The regulatory change modified the deadline for submission from March 15 to May 29, 2020.

This one-time modification was in response to potential negative impacts that current events may have had on a licensee's ability to submit an application and does not set a precedent for future years

Fishery participants were informed of this regulatory change via IPHC media release, NMFS' contact list for sablefish tier permit holders, a bulletin posted to the NMFS website, as well as other directed outreach to potentially affected public.

Revised Management Measures for Charter Vessel Fishing in Area 2C

The two primary management measures previously established for 2020 in Area 2C were a daily bag limit of one halibut per charter angler, and size limits prohibiting retention of halibut that are greater than 40 inches (101.6 cm) or less than 80 inches (203.2 cm). The effect of these regulations is to limit both the number and pounds of retained halibut.

At the May 20, 2020 intersessional meeting, the IPHC recommended the continuation of a one-fish daily bag limit with a revision to the size limits. Specifically, the new regulations prohibit a person on board a charter vessel referred to in 50 CFR 300.65 and fishing in Area 2C from taking or possessing any halibut, with head on, that is greater than 45 inches (114.3 cm) and less than 80 inches (203.2 cm), as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail.

The analysis prepared by ADF&G indicates that, under the revised size limits, total harvests in Area 2C are expected to be less than the Area 2C charter halibut allocation. Under the current and expected charter fishing conditions in Area 2C, charter fishing effort has declined, and is expected to decline further later in the fishing season

relative to previous years. The total amount of decline in fishing effort throughout the year is difficult to predict. Therefore, the revised charter management measures are conservative and intended to provide additional harvest opportunity while maintaining total charter harvests within the current allocation. The analysis prepared by ADF&G indicates that if charter fishing removals in Area 2C decline by approximately 12 percent or more compared the removals originally projected in December of 2019 for the 2020 season, the revised management measures are projected to maintain charter halibut harvests within the current allocation.

Revised Management Measures for Charter Vessel Fishing in Area 3A

For 2020, the IPHC previously recommended the following management measures for Area 3A: 1) a two-fish bag limit with a 26-inch (66.0 cm) size limit on one of the halibut; 2) a one-trip per day limit for charter vessels and for charter halibut permits for the entire season; 3) an annual limit of four fish, with a reporting requirement; and, 4) prohibition on halibut retention by charter vessel anglers on all Tuesdays and all Wednesdays (85 FR 14586; March 13, 2020).

At the May 20, 2020 intersessional meeting, the IPHC recommended retaining the one-trip per day limits for halibut charter vessels and for charter halibut permits. The IPHC also recommended revising the management measures as follows:

Size Limit for Halibut Retained on a Charter Vessel in Area 3A

The revised 2020 charter halibut fishery regulations in Area 3A will include a two-fish daily bag limit in which one of the retained halibut may be of any size and one of the retained halibut must be 32 inches (81.3 cm) or less, as measured in a straight line,

passing over the pectoral fin from the tip of the lower jaw to the extreme end of the middle of the tail.

Retention of Halibut Allowed on All Days of the Week in Area 3A

The 2020 Area 3A charter fishing regulations are revised to allow retention of halibut by charter vessel anglers during any day of the week.

Withdraw the Annual Limit on Halibut Retained by Charter Vessels Anglers in Area 3A

The 2020 Area 3A charter fishing regulations are revised to withdraw the annual limit of four retained halibut for anglers on charter vessels. The revised regulations do not impose an annual limit on retained halibut for anglers on charter vessel fishing trips in Area 3A during the 2020 calendar year.

To enforce the previous annual limit, each charter vessel angler was required to record the date and location of each halibut harvested within a calendar year on the back of their fishing license or on a nontransferable Sport Harvest Record Card obtained from the Alaska Department of Fish and Game. The revised regulations withdraw this reporting requirement for Area 3A charter vessel fishing trips. All other reporting requirements remain in effect.

The analysis prepared by ADF&G indicates that, under the revised size limits, total harvests in Area 3A are expected to be less than the Area 3A charter halibut allocation. Under the current and expected charter fishing conditions in Area 3A, charter fishing effort has declined, and is expected to decline further later in the fishing season relative to previous years. The total amount of decline in fishing effort throughout the year is difficult to predict. Therefore, the revised charter management measures are conservative and intended to provide additional harvest opportunity while maintaining

total charter harvests within the current allocation. The analysis prepared by ADF&G indicates that if charter fishing removals in Area 3A decline by approximately 38 percent or more compared the removals originally projected in December of 2019 for the 2020 season, the revised management measures are projected to maintain charter halibut harvests within the current allocation.

Revised Halibut Management Measures

The following revised management measures apply to Section 15 Paragraph 9 and Section 29 of the 2020 IPHC regulations. They are recommended by the IPHC and have been accepted by the Secretary of State, with the concurrence of the Secretary of Commerce. These management measures supersede Section 15 Paragraph 9 and Section 29 regulations of the Commission previously published. The IPHC did not recommend any other changes to the 2020 Pacific halibut management measures. All other 2020 management measures adopted by the IPHC and previously published in the **Federal Register** (85 FR 14586; March 13, 2020) remain unchanged and are effective until superseded.

15. Licensing Vessels for IPHC Regulatory Area 2A

(9) A vessel operating in the incidental catch fishery during the sablefish fishery in IPHC Regulatory Area 2A must have submitted its “Application for Vessel License for the Pacific Halibut Fishery” form no later than 2359 local time on 29 May, or the next weekday in May if 29 May is a Saturday or Sunday.

29. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E

- (1) In Convention waters in and off Alaska.^{8,9}

⁸ NOAA Fisheries could implement more restrictive regulations for the recreational (sport) fishery or components of it, therefore, anglers are advised to check the current Federal or State regulations prior to fishing.

⁹ Charter vessels are prohibited from harvesting Pacific halibut in IPHC Regulatory Areas 2C and 3A during one charter vessel fishing trip under regulations promulgated by NOAA Fisheries at 50 CFR 300.66.

- (a) The recreational (sport) fishing season is from 1 February to 31 December.
 - (b) The daily bag limit is two Pacific halibut of any size per day per person unless a more restrictive bag limit applies in Commission regulations or Federal regulations at 50 CFR 300.65.
 - (c) No person may possess more than two daily bag limits.
 - (d) No person shall possess on board a vessel, including charter vessels and pleasure craft used for fishing, Pacific halibut that have been filleted, mutilated, or otherwise disfigured in any manner, except that each Pacific halibut may be cut into no more than 2 ventral pieces, 2 dorsal pieces, and 2 cheek pieces, with a patch of skin on each piece, naturally attached.
 - (e) Pacific halibut in excess of the possession limit in paragraph (1)(c) of this section may be possessed on a vessel that does not contain recreational (sport) fishing gear, fishing rods, hand lines, or gaffs.
 - (f) Pacific halibut harvested on a charter vessel fishing trip in IPHC Regulatory Areas 2C or 3A must be retained on board the charter vessel on which the Pacific halibut was caught until the end of the charter vessel fishing trip as defined at 50 CFR 300.61.
 - (g) Guided angler fish (GAF), as described at 50 CFR 300.65, may be used to allow a charter vessel angler to harvest additional Pacific halibut up to the limits in place for unguided anglers, and are exempt from the requirements in paragraphs (2) and (3) of this section.
- (2) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 2C:

(a) No person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than one Pacific halibut per calendar day.

(b) No person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain any Pacific halibut that with head on is greater than 45 inches (114.3 cm) and less than 80 inches (203.2 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail.

(3) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 3A:

(a) No person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than two Pacific halibut per calendar day.

(b) At least one of the retained Pacific halibut must have a head-on length of no more than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. If a person recreational (sport) fishing on a charter vessel in IPHC Regulatory Area 3A retains only one Pacific halibut in a calendar day, that Pacific halibut may be of any length.

(c) A “charter halibut permit” (as referred to in 50 CFR 300.67) may only be used for one charter vessel fishing trip in which Pacific halibut are caught and retained per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter

vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first.

(d) A charter vessel on which one or more anglers catch and retain Pacific halibut may only make one charter vessel fishing trip per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first.

Classification

IPHC Regulations

These IPHC revised management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. Pursuant to section 4 of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may “accept or reject” but not modify these recommendations of the IPHC. The notice-and-comment and delay-in-effectiveness date provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553(b) and (d), are inapplicable to IPHC management measures because this regulation involves a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). As stated above, the Secretary of State has no discretion to modify the recommendations of the IPHC. The additional time

necessary to comply with the notice-and-comment and delay-in-effectiveness requirements of the APA would disrupt coordinated international conservation and management of the halibut fishery pursuant to the Convention. Furthermore, no other law requires prior notice and public comment for this rule. Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this portion of the rule and none has been prepared. This final rule has been determined to be not significant for the purposes of Executive Order 12866. Because this is not a significant rule, the provisions of Executive Order 13771 are inapplicable.

Authority: 16 U.S.C. 773 *et seq.*

Dated: June 16, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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